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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/762,068	01/20/2004	Owen Bradley	31461-1001	4576
5179	7590	07/20/2005	EXAMINER	
PEACOCK MYERS, P.C. P O BOX 26927 ALBUQUERQUE, NM 87125-6927			ENGLE, PATRICIA LYNN	
			ART UNIT	PAPER NUMBER
			3612	

DATE MAILED: 07/20/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/762,068

Applicant(s)

BRADLEY, OWEN

Examiner

Patricia L. Engle

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 27 May 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 27 May 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)             | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |

## DETAILED ACTION

### *Claim Rejections - 35 USC § 112*

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claim 6 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

3. The term "DOT weight classes 6-8" in claim 6 is a relative term which renders the claim indefinite. The term "weight classes 6-8" is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention. The DOT weight classes could change which would render the claim indefinite.

### *Claim Rejections - 35 USC § 103*

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1-4, 6-11 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hofmann et al. (US 2002/0005649) in view of Lucas, Jr. (US Patent 5,816,650).

Hofmann et al. disclose a cabinet for use in a vehicle having a cab with a seat and floor, said cabinet comprising: a base (16); upstanding sidewalls (26,32) forming an enclosure; and a

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drawer (18); said cabinet disposed between the cab seat (24) and the floor (38) and supporting the cab seat (paragraph 0033). Regarding the preamble limitation that the cabinet is a filing cabinet, the filing cabinet is only an intended use of the cabinet, there is nothing in the body of the claim that requires that the drawer have filing cabinet characteristics. Regarding claim 3, Hofmann et al. disclose that the drawer can be opened from either side of the seat and that the drawer could be any width (paragraph 0033). Regarding claim 4, Hofmann et al. disclose that the drawer includes dividers to create small compartments. Regarding claim 7, Hofmann et al. disclose fasteners (paragraph 0033) connecting the cabinet to the cab floor (38) and to the seat (24). Regarding claim 8, Hofmann et al. disclose that the seat can lift away from the cabinet from one edge of the upper surface of the cabinet (Fig. 2). Regarding claim 9, Hofmann et al. disclose that the top of the cabinet includes a tabletop (20- although the element 20 is described as a load floor is a flat surface which is capable of functioning as a table top). Regarding claim 10, Hofmann et al. disclose that the backrest (22) folds forward (Fig. 4) and comprises a table top (Fig. 4- although Hofmann et al. do not specifically disclose that the rear surface of the backrest is a tabletop in Fig. 4 the seat back is disclosed as a flat surface which is capable of being used as a table top). Regarding claim 11, Hofmann et al. disclose that the cabinet is integral to the seat (Fig. 1). Regarding claim 15, Hofmann et al. disclose that the drawers include partitions which are movable and reconfigurable, therefore there must be fasteners in the drawer to support the partitions and the partitions could position files.

Hofmann et al. do not disclose that the cab seat is a front (claim 1) passenger seat (claim 2). Although in paragraph 0032, Hofmann et al. disclose that the cabinet can be used with any vehicle to increase the cargo room.

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Lucas, Jr. discloses a cabinet for use in a vehicle having a cab with a seat (10) and floor, said cabinet (26) comprising; a base (14); upstanding side walls (14) forming an enclosure; and a bin (26); said cabinet (26) disposed between the cab seat (10) and the cab floor and supporting the cab seat (10); wherein the seat is a front passenger seat (Fig. 1).

Hofmann et al. and Lucas, Jr. are analogous art because they are from the same field of endeavor, i.e., under seat storage devices.

At the time of the invention, it would have been obvious to one of ordinary skill in the art to use the drawer system of Hofmann et al. under a front passenger seat and allow the drawer to open toward the vehicle operator.

The motivation would have been to have a storage drawer which is easily accessible by the operator of the vehicle without the operator having to get out of the vehicle.

Therefore, it would have been obvious to combine Lucas, Jr. with Hofmann et al. to obtain the invention as specified in claims 1-4, 7-11 and 15.

Regarding claim 6, Hofmann et al. discloses in paragraph 0032 that the seat system could be used in any type of vehicle. Therefore it would have been obvious to use the seat system of Hofmann et al. as modified in a vehicle meeting the requirements of DOT weight classes 6-8.

6. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hofmann et al. in view of Lucas, Jr. as applied to claims 1-4, 6-11 above, and further in view of Pearse et al. (US Patent 6,488,327).

Hofmann et al. as modified disclose the cabinet of claim 4.

Hofmann et al. do not disclose that the small compartment is on the face of the drawer.

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Pearse et al. disclose an under seat storage compartment with a small compartment on a surface of the opening for the storage compartment.

Hofmann et al. as modified and Pearse et al. are analogous art because they are from the same field of endeavor, i.e., under seat storage compartments.

At the time of the invention, it would have been obvious to one of ordinary skill in the art to include a small storage compartment on the face of the drawer.

The motivation would have been to securely store small items so that they do not get lost in the relatively large expanse of the drawer.

Therefore, it would have been obvious to combine Pearse et al. with Hofmann et al. as modified to obtain the invention as specified in claim 5.

7. Claims 13, 14, 16-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hofmann et al. in view of Lucas, Jr. as applied to claims 1-4, 6-11 above, and further in view of Carico (US Patent 5,895,086).

Hofmann et al. as modified disclose the cabinet of claims 1-4 and 6-11.

Hofmann et al. do not disclose that the drawer includes a lock which is operable in response to vehicle conditions.

Carico discloses an under seat storage compartment with a lock which is operable in response to vehicle conditions (it is similar to a vehicle door lock).

Hofmann et al. as modified and Carico are analogous art because they are from the same field of endeavor, i.e., under seat storage compartments.

At the time of the invention, it would have been obvious to one of ordinary skill in the art to include a lock which is operable in response to vehicle conditions. The motivation would

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have been to ensure that the cabinet is accessible only under safe conditions and provides theft protection.

Therefore, it would have been obvious to combine Carico with Hofmann et al. as modified to obtain the invention as specified in claims 13, 14 and 16-20.

### *Response to Arguments*

8. Applicant's arguments with respect to claims 1-20 have been considered but are moot in view of the new ground(s) of rejection.

The applicant argues that DOT weight class 6-8 is a well known term in the art and is not indefinite. The Applicant also provided web pages in which examples of different vehicles in the weight classes were given. The Applicant did not however provide a definition of the weight classes. The Examiner attempted to visit the DOT web site to find a definition of truck weight classes at the time of the application, but could not find such a definition. If the Applicant would like to provide a clear and concise definition the DOT weight classes 6-8 standards at the time of filing this application, then the Examiner would consider removing the 112-2<sup>nd</sup> paragraph rejection.

The Applicant also argues that Hofmann et al. do not disclose a filing cabinet drawer. The limitation that the drawer is used as a filing cabinet is considered intended use and the drawer of Hofmann et al. can be used to store files or tools. Applicant also argues that the drawer of Hofmann et al. is not used on a front seat. Hofmann et al. do disclose that the seat system could be used in any type of vehicle to increase cargo room and that the drawer can be the entire width of the vehicle or only partial width of the vehicle. Lucas, Jr. discloses a front

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passenger seat with an integral storage compartment under the seat. It would have been obvious to one of ordinary skill in the art at the time of the invention to use the seat storage system of Hofmann et al. on a front passenger seat while still allowing the drawer to open on either lateral side of the seat so that the drawer contents can be accessed from either side of the seat.

The new reference of Carico discloses an under seat storage system with a lock that is like a vehicle door lock. Therefore the lock is operable in response to different vehicle conditions. The exact conditions are not disclosed, but the conditions would have been determined by the type of vehicle that the drawer was used in and the intended use of the drawer.

### *Conclusion*

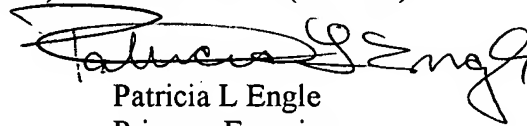
9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Roe et al. disclose a drawer or cabinet that is locked in such a manner that it does not fly open when the vehicle is in transit.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Patricia L. Engle whose telephone number is (571) 272-6660. The examiner can normally be reached on Monday - Friday from 8:00 to 4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, D. Glenn Dayoan can be reached on (571) 272-6659. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read "Patricia L. Engle", is written over a horizontal line.

Patricia L Engle  
Primary Examiner  
Art Unit 3612

PLE  
July 14, 2005